

**TESTIMONY OF D.C. INSPECTOR GENERAL  
CHARLES C. MADDOX, ESQ.**

**Before the District of Columbia City Council  
Committee on Government Operations**

**October 15, 2001**

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**GOOD MORNING, CHAIRMAN ORANGE AND OTHER MEMBERS OF THE COUNCIL. I APPRECIATE THE OPPORTUNITY TO COMMENT ON AND ANSWER QUESTIONS AT THIS PUBLIC HEARING CONCERNING BILL 14-314, THE “OFFICE OF INSPECTOR GENERAL INDEPENDENCE AND LAW ENFORCEMENT AMENDMENT ACT OF 2001” (IG ACT OF 2001). AS YOU KNOW FROM MY PREVIOUS TESTIMONY BEFORE THE COMMITTEE OF THE WHOLE ON JUNE 19<sup>TH</sup> AND THE COMMITTEE ON GOVERNMENT OPERATIONS ON JULY 10<sup>TH</sup>, THE IG ACT OF 2001 CONTAINS A NUMBER OF PROPOSALS THAT I BELIEVE ARE NECESSARY TO CLARIFY AND REINFORCE THE AUTHORITY AND INDEPENDENCE OF THE OFFICE OF THE INSPECTOR GENERAL (OIG) IN THE PERIOD FOLLOWING THE SUSPENSION OF ALL ACTIVITIES OF THE CONTROL BOARD ON SEPTEMBER 30<sup>TH</sup> OF THIS YEAR.**

**I HAVE ALSO BEEN INVITED BY COUNCILMEMBER ORANGE TO COMMENT TODAY ON A SECOND PIECE OF LEGISLATION, BILL 14-332, THE “INSPECTOR GENERAL INTEGRITY COMMITTEE ESTABLISHMENT**

**AMENDMENT ACT OF 2001” (INTEGRITY COMMITTEE ACT OF 2001), WHICH YOU INTRODUCED IN ORDER TO ESTABLISH AN OVERSIGHT COMMITTEE FOR THE OFFICE OF THE INSPECTOR GENERAL. AS YOU KNOW, I HAVE PREVIOUSLY DISCUSSED MY RESERVATIONS CONCERNING THE INTEGRITY COMMITTEE ACT OF 2001 DIRECTLY WITH YOU AND OTHERS ON THE COUNCIL. I WELCOME THE OPPORTUNITY TODAY TO REITERATE MY CONCERNS ABOUT THIS LEGISLATION AND, LATER, TO CLARIFY SOME MISUNDERSTANDINGS REGARDING MY LEGISLATIVE PROPOSALS.**

**INTEGRITY COMMITTEE ACT OF 2001**

**ACCORDING TO THE DRAFTERS OF THE INTEGRITY COMMITTEE ACT, ITS PURPOSE IS TO COMPLEMENT THE IG ACT OF 2001 BY CREATING AN ENTITY THAT MIRRORS THE FEDERAL INTEGRITY COMMITTEE ESTABLISHED BY THE PRESIDENT TO ADDRESS ALLEGATIONS OF WRONGDOING AGAINST FEDERAL INSPECTOR GENERALS. I WOULD LIKE TO MAKE IT CLEAR THAT I HAVE NO OBJECTION TO THE CREATION OF A PROCESS FOR INVESTIGATING ALLEGATIONS OF WRONGDOING AGAINST ME OR SENIOR MEMBERS OF MY STAFF – IN FACT, I WOULD WELCOME A CLEAR POLICY SETTING FORTH AN OBJECTIVE METHOD TO ADDRESS SUCH ALLEGATIONS IF THEY ARISE.**

**THE INTEGRITY COMMITTEE BEING PROPOSED TODAY, HOWEVER, DIFFERS SIGNIFICANTLY FROM THE FEDERAL MODEL. FIRST, IT PERMITS THE INVESTIGATION OF ALLEGATIONS AGAINST NOT ONLY THE INSPECTOR GENERAL, BUT OF ALL MEMBERS OF THE OIG STAFF WITHOUT LIMITATIONS. THE FEDERAL INTEGRITY COMMITTEE IS LIMITED TO CONSIDERING ALLEGATIONS AGAINST THE IG AND THE MOST SENIOR MEMBERS OF HIS/HER STAFF. ITS RULES PERMIT CONSIDERATION OF ALLEGATIONS INVOLVING OTHER STAFF MEMBERS ONLY WHEN AN OBJECTIVE INTERNAL INVESTIGATION IS NOT FEASIBLE.**

**MY OBJECTION TO THIS PROVISION IS NOT ARBITRARY: THE INTEGRITY COMMITTEE'S ABILITY TO INVESTIGATE AND OVERSEE INTERNAL OPERATIONS AT THE WORKING LEVEL WILL COMPROMISE THE CONFIDENTIALITY OF OUR WORK. THIS COMPROMISE WOULD BE ESPECIALLY PROBLEMATIC IN JOINT PROJECTS WITH OTHER LAW ENFORCEMENT AGENCIES BECAUSE IT WOULD ERODE THEIR CONFIDENCE IN OUR ABILITY TO PROTECT SENSITIVE INFORMATION. I DO NOT BELIEVE THERE IS ANY JUSTIFICATION FOR PREEMPTING MY AUTHORITY TO CONDUCT INTERNAL INQUIRIES WHEN THEY CAN BE DONE IN A FAIR AND OBJECTIVE MANNER. A SECOND CONCERN HERE IS THAT EXTERNAL INVESTIGATIONS INVOLVING ONGOING MATTERS CAN BE USED TO IMPEDE OR DELAY THE OPERATIONS OF**

**MY OFFICE. ALLEGATIONS OF THIS TYPE ARE OFTEN MADE BY THE SUBJECTS OF LAW ENFORCEMENT INVESTIGATIONS AS A WAY TO INTIMIDATE OR FALSELY IMPEACH THE WORKING LEVEL EMPLOYEE CONDUCTING THE INVESTIGATION.**

**MY MOST SIGNIFICANT CONCERN, HOWEVER, IS THAT THE INTEGRITY COMMITTEE ACT CONTAINS A FATAL FLAW THAT PREVENTS IT FROM “MIRRORING” THE FEDERAL INTEGRITY COMMITTEE: THE CURRENT BILL PROPOSES A COMMITTEE OF INDIVIDUALS – THE CHIEF FINANCIAL OFFICER, THE CHIEF OF THE MPD, THE CORPORATION COUNSEL, THE EXECUTIVE DIRECTOR OF THE OFFICE OF CAMPAIGN FINANCE, THE D.C. AUDITOR, THE CHAIRMAN OF THE COUNCIL, AND THE U.S. ATTORNEY – WHO ARE, WITH THE EXCEPTION OF THE U.S. ATTORNEY, PERSONALLY SUBJECT TO INVESTIGATION, INSPECTION, AND AUDIT BY MY OFFICE. IN FACT, EACH OF THEIR AGENCIES HAVE RECENTLY HAD EMPLOYEES UNDER INVESTIGATION, AUDIT, OR INSPECTION BY THIS OFFICE.**

**I SHOULD STATE FOR THE RECORD THAT ALTHOUGH MANY ALLEGATIONS ARE NOT ULTIMATELY SUBSTANTIATED, IT NEVERTHELESS IS MY LEGAL DUTY TO PROVIDE THE SAME THOROUGH AND OBJECTIVE REVIEW OF ALLEGATIONS INVOLVING**

**MEMBERS OF THE PROPOSED INTEGRITY COMMITTEE AS WOULD BE GIVEN IN THE CASE OF ANY OTHER DISTRICT EMPLOYEE.**

**UNLIKE THE FEDERAL INTEGRITY COMMITTEE, WHICH WAS CREATED FOR THE SPECIFIC PURPOSE OF PREVENTING AN INVESTIGATION OF AN IG BY ANY PERSON OR ENTITY UNDER THE SUPERVISION OR JURISDICTION OF THAT IG, THE PROPOSED BILL DOES THE OPPOSITE BY POSITING A SYSTEM, FOR EXAMPLE, WHERE ON ONE DAY THE IG MIGHT INVESTIGATE THE CFO, AND ON THE NEXT THE CFO INVESTIGATES THE IG. THIS CREATES NOT ONLY AN APPEARANCE OF A CONFLICT OF INTEREST BUT A REAL ONE AS WELL. BOTH COMPROMISE THE OBJECTIVITY AND CREDIBILITY OF SUCH INVESTIGATIONS BY THE IG AS WELL AS THOSE THAT THE INTEGRITY COMMITTEE WOULD CONDUCT. AS DRAFTED, THE UNFORTUNATE RESULT OF THIS BILL IS NOT TO COMPLEMENT THE IG ACT OF 2001 BY BOLSTERING THE INDEPENDENCE OF MY OFFICE BUT, INSTEAD, TO PRODUCE THE OPPOSITE EFFECT.**

#### **ALTERNATIVES TO THE INTEGRITY COMMITTEE ACT**

**DESPITE MY CONCERNS ABOUT THE INTEGRITY COMMITTEE UNDER DISCUSSION TODAY, I AM IN FAVOR OF CLARIFYING THE PROCESS BY WHICH ALLEGATIONS OF WRONGDOING CONCERNING ME OR SENIOR DEPUTIES OF MY OFFICE ARE ADDRESSED BECAUSE IT IS ESSENTIAL**

**THAT THESE CONCERNS EITHER BE SUBSTANTIATED OR PUT TO REST. THEREFORE, I WOULD LIKE TO SUBMIT FOR YOUR CONSIDERATION SOME ALTERNATIVES.**

**UTILIZE THE PCIE TO REVIEW INVESTIGATIONS**

**FIRST, I HAVE ABSOLUTELY NO OBJECTION TO BEING PLACED UNDER THE JURISDICTION OF THE PRESIDENT’S COUNCIL ON INTEGRITY AND EFFICIENCY THAT WAS USED AS A MODEL IN DRAFTING THIS BILL. THIS ALTERNATIVE WOULD UTILIZE AN ESTABLISHED PROCESS WITH INVESTIGATORS WHO HAVE NO CONFLICT OF INTEREST WITH MY OFFICE. UNDER THIS OPTION, COMPLAINTS AGAINST THE IG AND HIS/HER DEPUTIES WOULD BE REFERRED TO THE PRESIDENT’S INTEGRITY COMMITTEE FOR EVALUATION AND INVESTIGATION. THE RESULTS WOULD THEN BE PROVIDED TO THE DISTRICT GOVERNMENT FOR ACTION AS APPROPRIATE.**

**MODIFY THE EXISTING FRAMEWORK**

**A SECOND ALTERNATIVE IS NOT TO ENACT THIS INTEGRITY COMMITTEE BILL, BUT INSTEAD TO MORE FULLY UTILIZE THE STATUTORY FRAMEWORK THAT IS ALREADY IN PLACE FOR ADDRESSING ALLEGATIONS AGAINST THE IG. AS YOU KNOW, ONE OF MY OWN LEGISLATIVE PROPOSALS CONCERNS THE PROCESS FOR REMOVAL OF THE IG WHEN ALLEGATIONS OF MISCONDUCT ARE**

**PROVEN. AT PRESENT THE IG STATUTE STATES THAT THE MAYOR CAN REMOVE THE IG “FOR CAUSE.” I RECOMMEND PLACING A “CHECK” ON THE MAYOR’S ABILITY TO REMOVE THE IG BY REQUIRING THAT THE COUNCIL APPROVE ANY SUCH ACTION BY A TWO-THIRDS MAJORITY. IN EFFECT, THE COUNCIL ITSELF WOULD THEN ACT AS AN INTEGRITY COMMITTEE WITH RESPECT TO ADMINISTRATIVE ACTION AGAINST THE IG.**

**THIS OPTION REQUIRES CLARIFICATION ON TWO POINTS. FIRST, THERE IS A NEED FOR THE MAYOR TO ESTABLISH POLICY DESCRIBING THE PROCESS FOR EVALUATING AND INVESTIGATING ALLEGATIONS. SECOND, CURRENT LAW DOES NOT DESCRIBE HOW ALLEGATIONS AGAINST THE IG’S SUBORDINATES WOULD BE HANDLED. WITH RESPECT TO THE SECOND POINT, I BELIEVE THAT AGENCY POLICY, RATHER THAN LAW, IS THE APPROPRIATE METHOD FOR ADDRESSING COMPLAINTS AGAINST SUBORDINATES. IN FACT, I ESTABLISHED SUCH AN INTERNAL POLICY FOR MY OFFICE NEARLY A YEAR AGO, AND I HAVE ATTACHED IT FOR COUNCIL’S PERUSAL AS AN APPENDIX TO THE TRANSCRIPT OF THIS TESTIMONY.**

**MODIFY THE PROPOSED BILL**

**A THIRD ALTERNATIVE WOULD BE TO RETAIN THE FRAMEWORK OF THE INTEGRITY COMMITTEE PROPOSED BY THIS COMMITTEE, BUT TO**

**CHANGE THE PROBLEMATIC ELEMENTS. THE FIRST AREA OF CONCERN, THE ABILITY OF THE COMMITTEE TO INVESTIGATE WORKING LEVEL SUBORDINATES, WOULD BE ADDRESSED BY MY INTERNAL POLICY, DESCRIBED ABOVE, UNLESS I BELIEVE THAT MY OFFICE WOULD BE UNABLE TO CONDUCT THE INVESTIGATION IN AN OBJECTIVE FASHION.**

**THE SECOND PROBLEMATIC AREA, THE INHERENT CONFLICT OF INTEREST OF THE INTEGRITY COMMITTEE MEMBERS NAMED IN THE BILL, CAN BE ADDRESSED AS FOLLOWS: SUBSTITUTE THE COUNCIL MEMBERS WHO COMPRISE THE COMMITTEE ON GOVERNMENT OPERATIONS FOR THE COMMITTEE MEMBERS NAMED IN THE BILL FOR PURPOSES OF RECEIVING AND SCREENING ALL ALLEGATIONS RECEIVED FROM ANY SOURCE. IF THE COMMITTEE DETERMINES THAT THERE IS PROBABLE CAUSE TO BELIEVE THAT THE ALLEGATION MERITS FURTHER INVESTIGATION, THE ALLEGATION WOULD THEN BE TRANSMITTED TO THE MAYOR WITH A REQUEST FOR AN INVESTIGATION BY THE MPD INTERNAL AFFAIRS DIVISION. THE MPD WOULD PROVIDE COPIES OF ITS REPORT OF INVESTIGATION TO THE MAYOR AND THE COMMITTEE ON GOVERNMENT OPERATIONS. THE COMMITTEE WOULD THEN REFER THE INVESTIGATIVE FINDINGS AND ITS RECOMMENDATIONS TO THE FULL COUNCIL FOR A VOTE ON ACTION, IF ANY, TO BE TAKEN. IN THE EVENT THAT THE COUNCIL**



**RECOMMENDS ADMINISTRATIVE ACTION AGAINST THE IG, INCLUDING REMOVAL FOR CAUSE, ITS FINDING WOULD THEN BE SUBMITTED TO THE MAYOR FOR FINAL ACTION. IN MY OPINION, THE CHECKS AND BALANCES AFFORDED BY THE ROLES OF BOTH THE EXECUTIVE AND LEGISLATIVE BRANCHES OF GOVERNMENT DIMINISH THE POTENTIAL FOR A CONFLICT OF INTEREST IN THIS ALTERNATIVE.**

**I HOPE THAT YOU FIND ONE OR MORE OF MY RECOMMENDED ALTERNATIVES WORTHY OF CONSIDERATION. AS I NOTED EARLIER, I WOULD ENDORSE A WRITTEN PLAN THAT CLEARLY DELINEATES THE PROCESS FOR ADDRESSING ALLEGATIONS AGAINST THE IG - AS LONG AS THAT PROCESS DOES NOT COME WITH A BUILT-IN CONFLICT OF INTEREST OR COMPROMISE THE INDEPENDENCE OF MY OFFICE. AS I HAVE STATED IN MY EARLIER MEETINGS WITH YOU, I WOULD WELCOME THE OPPORTUNITY TO WORK WITH THE COUNCIL TO IMPLEMENT MY RECOMMENDATIONS IF IT DECIDES TO INITIATE SUCH ACTION.**

#### **LEGISLATIVE PROPOSALS SUBMITTED BY THE IG**

**FROM THE TIME I JOINED THE OFFICE OF THE INSPECTOR GENERAL SOME THREE YEARS AGO, THE COUNCIL ON SEVERAL OCCASIONS HAS PLAYED A CONSTRUCTIVE ROLE IN AMENDING AND CLARIFYING THE**

**SECTION OF THE D.C. CODE THAT DEALS WITH THE AUTHORITIES OF THE IG. FOR EXAMPLE, THE COUNCIL PASSED LEGISLATION TO ALLOW OUR CRIMINAL INVESTIGATORS TO CARRY FIREARMS, TO MAKE CERTAIN TYPES OF ARRESTS, AND TO EXECUTE SEARCH WARRANTS ISSUED UPON PROBABLE CAUSE. THE COUNCIL ALSO MADE THE OIG STANDARDS, POLICIES, AND REPORTING PROCEDURES MORE CLOSELY RESEMBLE THOSE OF FEDERAL IG OFFICES, AND HAS GIVEN OUR MEDICAID FRAUD CONTROL UNIT ADDITIONAL PROSECUTIVE AND INVESTIGATIVE OPTIONS.**

**SOME OF THESE AMENDMENTS HAVE CHALLENGED US TO BECOME INCREASINGLY MORE OPEN AND RESPONSIVE TO THE NEEDS AND INTERESTS OF STAKEHOLDERS AND I BELIEVE WE HAVE MET THOSE CHALLENGES. THE AMENDMENTS HAVE ALSO STRENGTHENED OUR AUTHORITY AND CLARIFIED OUR MISSION AND JURISDICTION. ACCORDINGLY, I AM RECOMMENDING A NUMBER OF ADDITIONAL LEGISLATIVE CHANGES BECAUSE I BELIEVE THAT THEY WOULD BE PARTICULARLY BENEFICIAL AT A TIME WHEN OUR FOCUS IS ON DOING AS MUCH AS POSSIBLE TO BETTER ADDRESS RISKS TO THE DISTRICT IN THE POST-CONTROL BOARD YEARS.**

**WITH THE EXCEPTION OF MY RECOMMENDATION THAT THE DISTRICT DRAFT LEGISLATION INCORPORATING THE SAFEGUARDS OF THE**

**FEDERAL ETHICS IN GOVERNMENT ACT AND THE FEDERAL FALSE STATEMENTS STATUTES, BILL 14-314 ADDRESSES THE LEGISLATIVE PROPOSALS THAT I HAVE DESCRIBED AND ENDORSED DURING EARLIER HEARINGS. SOME OF THE PROPOSALS ARE INTENDED TO CLARIFY AMBIGUITIES IN THE IG STATUTE. FOR INSTANCE, I WOULD LIKE THE IG STATUTE TO CLEARLY ESTABLISH MY INDEPENDENT AUTHORITY TO HIRE EMPLOYEES UNDER THE EXCEPTED SERVICE. THERE IS ALSO A NEED TO RESOLVE THE CONFLICT BETWEEN THE IG STATUTE, WHICH PROVIDES JURISDICTION OVER ALL INDEPENDENT AGENCIES, AND SUBSEQUENT LEGISLATION WHICH CASTS DOUBT ON MY ABILITY TO INDEPENDENTLY INITIATE INVESTIGATIONS CONCERNING THE HOUSING AUTHORITY.**

**I AM ALSO CONCERNED THAT THE DISTRICT'S INSPECTOR GENERAL STATUTE DOES NOT PROVIDE FOR TIMELY RESOLUTION OF DISAGREEMENTS BETWEEN THE OIG AND OTHER DISTRICT AGENCIES. THIS ISSUE IS ESPECIALLY CRITICAL NOW THAT THE CONTROL BOARD HAS GONE – NONE OF US CAN ASSUME THAT THE DISTRICT'S PROBLEMS WITH PROCUREMENT, MISMANAGEMENT, AND OVERSPENDING ARE GONE AS WELL. THEREFORE, I RECOMMEND THAT THE IG STATUTE BE AMENDED TO REQUIRE THE INSPECTOR GENERAL TO FORWARD TO THE MAYOR FOR FINAL RESOLUTION ANY SIGNIFICANT AUDIT OR INSPECTION FINDINGS AND**

**RECOMMENDATIONS THAT HAVE NOT BEEN RESOLVED WITHIN SIX MONTHS OF THE FINAL REPORT. TO ENSURE FULL DISCLOSURE, I RECOMMEND THAT THE STATUTE MANDATE PUBLICATION OF THE STATUS OF THESE UNRESOLVED ISSUES IN THE INSPECTOR GENERAL'S ANNUAL REPORT AND ON OUR WEB SITE.**

**WHILE I AM ON THE TOPIC OF RESOLVING ISSUES WITH OTHER AGENCIES, I WILL MENTION BRIEFLY MY PROPOSAL THAT REQUIRES MY OFFICE TO COORDINATE AND GIVE "DUE REGARD" TO THE D.C. AUDITOR'S ACTIVITIES. THE ISSUE HERE IS THAT MY AUDIT AND INSPECTION SCHEDULES, WHICH ARE PUBLISHED ANNUALLY, OFTEN UNCOVER CRIMINAL AND ADMINISTRATIVE MISCONDUCT, WHICH MUST THEN BE REFERRED TO OUR INVESTIGATIONS DIVISION. AFTER THOSE REFERRALS TAKE PLACE, IT IS CRITICAL THAT THE AUDIT AND THE INVESTIGATION BE CAREFULLY SYNCHRONIZED TO AVOID JEOPARDIZING ANY SUBSEQUENT PROSECUTIVE ACTION. IF I KNOW THAT THE D.C. AUDITOR IS WORKING IN AN AREA THAT IS LIKELY TO BE THE SUBJECT OF INVESTIGATION, I WILL DECIDE WHETHER TO ADJUST MY PLANS ACCORDINGLY. FOR THIS REASON, I AM SIMPLY REQUESTING THAT I BE ADVISED IF ANOTHER AUDIT OR INQUIRY IS SCHEDULED TO OCCUR THAT MIGHT DUPLICATE OR CONFLICT WITH MY EFFORTS.**

**BASED ON CONVERSATIONS WITH MEMBERS OF THIS COMMITTEE, I AM MINDFUL OF THE FACT THAT THIS PROPOSAL MIGHT BE MORE EASILY ADDRESSED THROUGH A MEMORANDUM OF UNDERSTANDING. I WOULD LOOK FORWARD TO WORKING WITH THE D.C. AUDITOR AND WITH THIS COMMITTEE IF THIS METHOD OF RESOLUTION IS AGREEABLE TO ALL PARTIES.**

**SEVERAL OF THE AMENDMENTS TO THE IG STATUTE BUTTRESS THE NEED FOR INDEPENDENCE AND OBJECTIVITY THAT WE MUST HAVE TO PROVIDE RESULTS THAT ARE CREDIBLE TO ALL STAKEHOLDERS. IN THIS REGARD, I RECOMMEND SUPPLEMENTING THE DISTRICT'S IG STATUTE BY INCLUDING A SAFEGUARD – WHICH IS MIRRORED IN THE FEDERAL IG ACT - THAT EXPRESSLY PROHIBITS THE MAYOR FROM INTERFERING WITH AN OIG AUDIT, INSPECTION, OR INVESTIGATION. THE NET EFFECT OF THESE PROPOSALS WOULD BE TO TAKE FROM THE MAYOR THE OPTION OF BEING ABLE TO INTERFERE WITH THE IG'S WORK. THE MAYOR WOULD NOT BE ABLE TO THREATEN THE IG WITH REMOVAL WITHOUT, FIRST, CONSIDERING THE REALITY THAT THE COUNCIL CAN AND WILL SCRUTINIZE HIS/HER ACTIONS. SIMILARLY, THE MAYOR WOULD NOT BE ABLE TO UNDULY INFLUENCE THE CONDUCT OF OUR WORK WITHOUT RISKING THE THREAT OF CRIMINAL SANCTION.**

I BELIEVE IT IS IMPORTANT FOR THE COUNCIL AND THE PUBLIC TO KNOW THAT MAYOR WILLIAMS HAS BEEN A STRONG SUPPORTER OF THE “CHECKS” I HAVE PROPOSED ON HIS OFFICE. I HAVE DISCUSSED THEM WITH HIM IN FULL DETAIL AND BELIEVE HE SHARES THE COUNCIL’S UNDERSTANDING THAT WE ARE TALKING ABOUT ADJUSTING THE WAY IN WHICH THE OFFICE OF THE MAYOR AND THE OFFICE OF THE INSPECTOR GENERAL RELATE TO EACH OTHER AND TO THE COUNCIL, NOW AND IN THE FUTURE. OUR EFFORTS ARE NOT DIRECTED TOWARD ANY PARTICULAR INDIVIDUALS WHO PRESENTLY OCCUPY THESE OFFICES. I AM PARTICULARLY PLEASED THAT THE MAYOR SUPPORTS THESE CHECKS DESPITE THE OBVIOUS FACT THAT IT IS THE EXECUTIVE BRANCH THAT IS MOST OFTEN DIRECTLY IMPACTED BY OUR REPORT FINDINGS, WHICH, AS YOU ALL KNOW, ARE USUALLY QUITE POINTED AND CRITICAL.

AGAIN, THE FAILURE TO HAVE THE APPROPRIATE TOOLS TO CONDUCT INVESTIGATIONS HAS THE EFFECT OF FORCING US AND OTHER LOCAL AGENCIES TO SEEK INTERVENTION BY FEDERAL AGENCIES.

IN THE INTEREST OF TIME, I WILL NOT ADDRESS EACH OF THE REMAINING PROPOSALS IN DETAIL. HOWEVER, I WILL BE PLEASED

**TO EXPOUND UPON THEM LATER IN THIS HEARING, AND I HAVE SET THEM FORTH IN AN ADDENDUM TO MY TESTIMONY.**

**FULL LAW ENFORCEMENT AUTHORITY**

**PERHAPS THE MOST IMPORTANT –YET MISUNDERSTOOD – PROPOSAL IN THIS LEGISLATIVE PACKAGE IS MY REQUEST THAT SPECIAL AGENTS OF OUR INVESTIGATIONS DIVISION BE PROVIDED WITH BROADER AUTHORITY TO MAKE ARRESTS. AT PRESENT, THEY CAN MAKE ARRESTS ONLY FOR FELONIES COMMITTED IN THEIR PRESENCE. THE INABILITY TO EXECUTE ARREST AND SEARCH WARRANTS IN OUR OWN CASES REQUIRES US TO RELY ON OTHER LAW ENFORCEMENT AGENCIES, USUALLY THE FBI, TO COMPLETE OUR INVESTIGATIONS. IT ALSO DENIES OUR INVESTIGATORS RECIPROCITY FROM OTHER LAW ENFORCEMENT AGENCIES WITH RESPECT TO WEAPONS CARRIAGE, ACCESS TO CRITICAL LAW ENFORCEMENT INTELLIGENCE DATABASES, AND EVEN THE ABILITY TO TRANSPORT AND BOOK INDIVIDUALS INTO CUSTODY WHEN THEY SURRENDER THEMSELVES. OUR RESPONSIBILITIES UNDER THE IG STATUTE REQUIRE US TO CONDUCT MANY OF THE SAME CRIMINAL INVESTIGATIONS AS THE FBI OR THE MPD, YET WE HAVE NOT BEEN PROVIDED WITH THE FULL MEANS TO DO SO.**

**SINCE REQUESTING FULL LAW ENFORCEMENT AUTHORITY, I HAVE BEEN ASKED MANY QUESTIONS ABOUT HOW IT WOULD CHANGE MY OFFICE, SUCH AS, WILL MORE PEOPLE CARRY GUNS NOW? WHY DOES THE DISTRICT'S IG REQUIRE MORE LAW ENFORCEMENT AUTHORITY THAN OTHER STATE OR FEDERAL IG OFFICES? WILL IG INVESTIGATORS BE ABLE TO CARRY GUNS EVERYWHERE AND TO MAKE ARRESTS WHENEVER THEY PLEASE?**

**CURRENT AUTHORITY TO CARRY FIREARMS**

**I WOULD LIKE TO RESPOND DIRECTLY TO THESE QUESTIONS AND CONCERNS. FIRST, MY PROPOSAL WILL NOT RESULT IN AN INCREASE OF INDIVIDUALS CARRYING WEAPONS IN THE DISTRICT. IN FACT, AS I PREVIOUSLY MENTIONED, THE COUNCIL HAS ALREADY APPROVED WEAPONS CARRIAGE IN 1999. I AM PLEASED TO SAY THAT SINCE THAT TIME, THERE HAS NOT BEEN ONE INSTANCE IN WHICH AN ALLEGATION OR ISSUE HAS ARISEN CONCERNING THE INAPPROPRIATE USE OF FIREARMS. HOWEVER, IN THE EVENT THAT AN INVESTIGATOR DISCHARGES A WEAPON, A PROCESS IS ALREADY IN PLACE FOR A THOROUGH INVESTIGATION UNDER THE TERMS OF A MEMORANDUM OF UNDERSTANDING BEING NEGOTIATED WITH THE FORCE INVESTIGATION TEAM OF THE MPD. I WOULD LIKE TO ADD HERE THAT, UNDER THE LEADERSHIP OF CHIEF RAMSEY, THIS TEAM HAS RECEIVED NATIONAL ACCLAIM FOR ITS DEDICATION AND**



**PROFESSIONALISM IN CONDUCTING POST-TRAUMATIC INVESTIGATIONS. THE DISTRICT IS FORTUNATE TO HAVE THIS DISTINGUISHED UNIT, AND WE ARE PROUD OF OUR ASSOCIATION WITH THEM.**

**IT SHOULD BE NOTED AS WELL THAT OUR ENTIRE OFFICE IS NOT ARMED - UNDER THE CURRENT AS WELL AS THE PROPOSED LAW. ONLY 28 OF 105 OF OUR EMPLOYEES ARE ELIGIBLE TO CARRY WEAPONS – AND THEN ONLY AFTER QUALIFYING ON THE SAME COURSES AND STANDARDS USED BY BOTH THE MPD AND THE FBI. THESE QUALIFICATIONS INITIALLY TAKE PLACE AT THE FEDERAL LAW ENFORCEMENT CENTER IN GLYNCO, GA., AT THE SAME TEN-WEEK COURSE THAT MOST FEDERAL LAW ENFORCEMENT OFFICERS ARE REQUIRED TO TAKE, INCLUDING THE U.S. SECRET SERVICE.**

**UNIQUENESS OF THE DC OIG**

**SECOND, THE PROPOSED LEGISLATION WOULD NOT PROVIDE MORE AUTHORITY THAN THAT OF FEDERAL IG INVESTIGATORS, WHO ARE GENERALLY DEPUTIZED AS FEDERAL MARSHALS, GIVING THEM ARREST POWERS EQUAL TO FEDERAL LAW ENFORCEMENT AGENCIES, SUCH AS THE FBI AND THE SECRET SERVICE. ONE SIGNIFICANT DIFFERENCE IS THAT FEDERAL LAW ENFORCEMENT OFFICERS ACTUALLY CAN TRAVEL FROM STATE TO STATE TO MAKE ARRESTS**

**AND PERFORM OTHER LAW ENFORCEMENT FUNCTIONS. OUR LEGISLATION PROVIDES NO SUCH EXTRATERRITORIAL POWERS. INSTEAD, WE WOULD BE HELD TO THE SAME STANDARDS AS THE MPD OR ANY OTHER LOCAL LAW ENFORCEMENT AGENCY WHEN ATTEMPTING TO EXECUTE DISTRICT OF COLUMBIA ARREST AND SEARCH WARRANTS.**

**IN OUR CASE, THIS PRACTICE WOULD APPLY WHEN SUBJECTS OF THOSE WARRANTS RESIDE IN MARYLAND OR VIRGINIA. SPECIFICALLY, THAT PROCESS REQUIRES US TO COORDINATE THE ARREST WITH THE STATE JUDICIARY AND POLICE WHO HAVE THE JURISDICTION TO TAKE SUCH ACTION IN THEIR OWN TERRITORY. THIS WOULD BE A STANDARD OPERATING PROCEDURE WHICH IS PRACTICED BY LAW ENFORCEMENT OFFICIALS ALL OVER THE COUNTRY.**

**IT IS TRUE THAT MANY STATE IG OFFICES CANNOT EMPOWER THEIR EMPLOYEES TO CARRY WEAPONS OR MAKE ARRESTS. THIS IS TRUE BECAUSE MOST STATE IG OFFICES WERE CREATED TO PERFORM AUDITS AND ADMINISTRATIVE INQUIRIES RATHER THAN CRIMINAL INVESTIGATIONS. MY AGENCY IS UNIQUE AMONG STATE LEVEL IG OFFICES IN THAT TWO OF OUR FOUR DIVISIONS – THE MEDICAID FRAUD CONTROL UNIT AND THE INVESTIGATIONS DIVISION – ARE**

**RESPONSIBLE FOR INVESTIGATIONS THAT MAY INVOLVE THE ARREST AND PROSECUTION OF CRIMINAL OFFENDERS. I BELIEVE IT IS ONLY APPROPRIATE THAT THIS OFFICE, WHICH WAS GIVEN A UNIQUE SET OF DUTIES AND RESPONSIBILITIES BY CONGRESS AND THE COUNCIL, SHOULD ALSO BE GIVEN THE UNIQUE SET OF TOOLS NEEDED TO FULLY DO THE JOB.**

### **ARREST POWERS**

**FINALLY, I WOULD LIKE TO MAKE IT CLEAR THAT OUR AGENTS, LIKE THOSE IN OTHER INVESTIGATIVE AGENCIES, WOULD NEVER HAVE THE AUTHORITY TO ARREST IN AN ARBITRARY MANNER. UNDER THE PROPOSED LEGISLATION, THE PROCESS FOR ARRESTING AN INDIVIDUAL WOULD REMAIN THE SAME: OUR AGENTS WOULD BE REQUIRED TO PRESENT TO A PROSECUTOR THE FACTS FROM OUR INVESTIGATION THAT SUPPORT THE BELIEF THAT A PARTICULAR PERSON COMMITTED A PARTICULAR CRIME WITHIN OUR JURISDICTION. THE PROSECUTOR WOULD THEN DECIDE WHETHER OR NOT TO AUTHORIZE THE AGENT TO APPLY FOR AN ARREST WARRANT FROM A MAGISTRATE OR TO SEND THE CASE TO A GRAND JURY. IN EITHER EVENT, A WARRANT COULD NOT BE ISSUED WITHOUT THE DECISION OF A MAGISTRATE OR JUDGE CONSIDERING ALL OF THE INFORMATION FURNISHED TO HIM OR HER.**

**BENEFITS OF MODEST CHANGE TO LAW ENFORCEMENT AUTHORITY  
LESS FEDERAL INTERVENTION**

THE MAJOR DIFFERENCE UNDER THE NEW LEGISLATION IS THAT OUR AGENTS WOULD NOT BE OBLIGATED TO SEEK FEDERAL INTERVENTION IN CASES WHERE AN ARREST MAY BE NECESSARY TO RESOLVE OUR CASE. DURING FY 2000, 45 CASES OF THIS TYPE WERE REFERRED TO THE U.S. ATTORNEY, AND 29 WERE ACCEPTED. DURING THE PAST FISCAL YEAR, SUBJECTS OF CRIMINAL INVESTIGATIONS CONDUCTED BY OUR MEDICAID FRAUD CONTROL UNIT WERE PROSECUTED IN THE DISTRICT'S SUPERIOR COURT BY OUR ATTORNEYS WHO ARE DEPUTIZED AS SPECIAL U.S. ATTORNEYS. IRONICALLY, THESE SPECIAL U.S. ATTORNEYS HAVE THE ABILITY TO SEEK CRIMINAL CONVICTIONS IN COURT, BUT OUR INVESTIGATORS LACK THE AUTHORITY TO ARREST THOSE SAME INDIVIDUALS BEFORE THEY ARE CONVICTED.

**FASTER CONVICTIONS, MORE IMMEDIATE FISCAL IMPACT**

GIVEN THE VOLUME OF CASES THAT RESULT IN PROSECUTIVE ACTION, IT IS OF VITAL IMPORTANCE THAT MY OFFICE BE GIVEN THE ABILITY TO PROVIDE A SWIFT, EFFICIENT, AND INDEPENDENT REACTION TO FRAUD AND ABUSE OCCURRING WITHIN THE DISTRICT GOVERNMENT. AS I HAVE TESTIFIED EARLIER, EVEN UNDER THE BEST OF CIRCUMSTANCES, FEDERAL INTERVENTION REGARDING ARRESTS

**DELAYS RESOLUTION OF OUR CASES BECAUSE FEDERAL AGENCIES AND THE OIG DO NOT SHARE THE SAME INVESTIGATIVE PRIORITIES. IN ADDITION, DELAY IN CLOSING THESE CASES FORSTALLS THE REALIZATION OF FINES, SAVINGS AND RECOVERIES THAT WOULD ACCRUE TO THE DISTRICT. JUST IN FY 2000 ALONE, INDIVIDUALS CONVICTED AS A RESULT OF OIG INVESTIGATIONS WERE ORDERED TO PAY A TOTAL OF OVER \$2.1 MILLION IN RESTITUTION, FINES, ASSESSMENTS, TAXES AND PENALTIES. I DO NOT BELIEVE THE DISTRICT SHOULD DELAY RECEIVING THESE BENEFITS, AND MY PROPOSAL WOULD ADDRESS THIS PROBLEM.**

#### **FUTURE LEGISLATION**

**I REMAIN HOPEFUL THAT THIS COUNCIL WILL IN THE FUTURE ENTERTAIN MY PROPOSAL, WHICH WAS ELIMINATED FROM THIS BILL, TO MODIFY THE DISTRICT'S FALSE STATEMENTS STATUTE. AS CURRENTLY DRAFTED, THE D.C. CODE PENALIZES FALSE STATEMENTS AS A MISDEMEANOR OFFENSE AND COVERS ONLY WRITTEN MISSTATEMENTS. THIS LAW IS NOT A USEFUL TOOL FOR US, THE MPD, OR ANY OTHER LAW ENFORCEMENT AGENCY IN THE DISTRICT. THE RESULT IS THAT THE ONLY EFFECTIVE WAY TO SEEK THE TRUTH IN CASES WHERE WITNESSES LIE – AND LET ME ASSURE YOU, THEY LIE OFTEN – IS TO SEEK FEDERAL REMEDIES. SUCH REMEDIES INCLUDE A**

**GRAND JURY OR THE FEDERAL FALSE STATEMENT STATUTE, WHICH IS A FELONY.**

**ANOTHER PROPOSAL SENT FORWARD TO THE COUNCIL WAS MY RECOMMENDATION THAT THE DISTRICT ADOPT A COMPREHENSIVE CODE OF ETHICAL STANDARDS THAT CAN BE APPLIED UNIFORMLY TO ALL DISTRICT EMPLOYEES. IT HAS BEEN MY EXPERIENCE THAT THE DISTRICT GOVERNMENT HAS NOT DONE ENOUGH TO DEVELOP CLEAR STANDARDS OF ETHICS AND TO ENSURE THAT THEY HAVE BEEN EFFECTIVELY COMMUNICATED TO ALL EMPLOYEES.**

**ONLY DISTRICT AND FEDERAL EMPLOYEES ARE SUBJECT TO THE SANCTIONS OF FEDERAL CONFLICT OF INTEREST FELONY STATUTES. THEREFORE, I BELIEVE THAT IT IS IN THE BEST INTEREST OF OUR EMPLOYEES TO ADOPT THE SAME ETHICAL STANDARDS THAT APPLY TO FEDERAL EMPLOYEES. THESE STANDARDS ARE EASY TO UNDERSTAND AND ARE DESIGNED TO PREVENT EMPLOYEES FROM MOVING FROM THE SLIPPERY SLOPE OF ETHICAL VIOLATIONS TO CRIMINAL VIOLATIONS. IN LIEU OF THE ADOPTION OF THIS PROPOSAL, I CONTINUE TO RECOMMEND THE DEVELOPMENT OF BETTER REGULATIONS AND INCREASED FUNDING FOR TRAINING AND ENFORCEMENT. I WOULD BE PLEASED TO WORK WITH THE OFFICE OF**

**PERSONNEL, THE OFFICE OF CAMPAIGN FINANCE, AND THE COUNCIL  
IN THIS ENDEAVOR.**

**AT THIS TIME I WILL END MY FORMAL TESTIMONY, AND THANK YOU  
FOR THE OPPORTUNITY TO SHARE MY VIEWS. WITH THE CONTINUED  
SUPPORT AND INVOLVEMENT OF THIS COUNCIL, I AM CONFIDENT  
THAT WE WILL DO OUR PART TO HELP THE DISTRICT GOVERNMENT  
CONTINUE TO BECOME MORE EFFICIENT, COST EFFECTIVE, AND  
RESPONSIVE TO ITS CITIZENS.**

**I WILL BE PLEASED TO RESPOND TO YOUR QUESTIONS AT THIS TIME.**

**ADDENDUM: ATTACHED IS A BRIEF SUMMARY OF ALL LEGISLATIVE PROPOSALS SUBMITTED BY THE IG TO THE MAYOR FOR REFERRAL TO THE COUNCIL.**

**FULL LAW ENFORCEMENT AUTHORITY (PROPOSAL #1)**

**CURRENTLY, OIG INVESTIGATORS ARE AUTHORIZED TO EXECUTE SEARCH WARRANTS, CARRY FIREARMS WHILE ON DUTY WITHIN THE DISTRICT OF COLUMBIA, AND ARREST FOR FELONIES OCCURRING WITHIN THEIR PRESENCE. HOWEVER, OIG INVESTIGATORS MAY NEITHER ARREST THE SUBJECTS OF OUR OWN INVESTIGATIONS NOR MAKE WARRANTLESS ARRESTS WHEN THERE IS PROBABLE CAUSE TO BELIEVE A FELONY HAS BEEN COMMITTED. IN ADDITION, NEIGHBORING JURISDICTIONS HAVE DECLINED TO GRANT RECIPROCITY TO OUR INVESTIGATORS TO CARRY FIREARMS. THIS LIMITED GRANT OF LAW ENFORCEMENT AUTHORITY, THEREFORE, UNDERMINES OUR STATUTORY MISSION TO INDEPENDENTLY INVESTIGATE ALLEGATIONS OF CRIMINAL MISCONDUCT. IT DENIES OUR INVESTIGATORS ACCESS TO NECESSARY INVESTIGATIVE TOOLS, AND IT THREATENS THE SAFETY OF OUR INVESTIGATORS AS WELL AS THAT OF THE PUBLIC.**

**RESOLUTION OF DISAGREEMENTS IN AUDIT AND INSPECTION**

**FINDINGS AND RECOMMENDATIONS (PROPOSAL #2)**



**THE DISTRICT'S INSPECTOR GENERAL STATUTE, D.C. CODE § 2-302.08, DOES NOT PROVIDE FOR TIMELY RESOLUTION OF DISAGREEMENTS BETWEEN THE OIG AND ANOTHER DISTRICT AGENCY. WE RECOMMEND THAT THE STATUTE BE AMENDED TO REQUIRE THE INSPECTOR GENERAL TO FORWARD TO THE MAYOR FOR RESOLUTION ANY SIGNIFICANT AUDIT OR INSPECTION FINDINGS AND RECOMMENDATIONS THAT HAVE NOT BEEN RESOLVED WITHIN SIX MONTHS OF THE FINAL REPORT. ALSO, WE RECOMMEND THAT THE STATUTE MANDATE PUBLICATION OF THE STATUS OF THESE UNRESOLVED ISSUES IN THE INSPECTOR GENERAL'S ANNUAL REPORT.**

**INCREASING THE INDEPENDENCE OF THE OFFICE OF THE INSPECTOR GENERAL AS A SUBORDINATE AGENCY (PROPOSAL #3)**

**WE RECOMMEND SUPPLEMENTING THE DISTRICT'S IG STATUTE TO INCLUDE A SAFEGUARD THAT EXPRESSLY PROHIBITS THE MAYOR FROM INTERFERING WITH AN OIG AUDIT, INSPECTION, OR INVESTIGATION. THIS PROPOSAL IS NOT BEING OFFERED BECAUSE OF ANY EXISTING PROBLEMS WITH THE CURRENT MAYOR, BUT IS INTENDED TO ACHIEVE SAFEGUARDS, WHICH ALREADY EXIST FOR FEDERAL INSPECTORS GENERAL WHO ALSO REPORT DIRECTLY TO THE EXECUTIVE HEAD.**

**COORDINATION BY THE DISTRICT OF COLUMBIA AUDITOR (PROPOSAL #4)**

**THE INSPECTOR GENERAL STATUTE REQUIRES THE OIG TO “GIVE DUE REGARD” TO THE D.C. AUDITOR’S ACTIVITIES. WE RECOMMEND CHANGES TO THE STATUTE, WHICH WOULD MANDATE RECIPROCITY FROM THE DISTRICT’S AUDITOR. COORDINATION BETWEEN BOTH AGENCIES IS ESSENTIAL TO PREVENT THE AUDITOR FROM INADVERTENTLY COMPROMISING OUR INVESTIGATIONS. IT ALSO HELPS TO PREVENT DUPLICATION OF OUR AGENCIES’ EFFORTS AND RESOURCES.**

**PENALTIES FOR OBSTRUCTING OIG INSPECTIONS AND AUDITS (PROPOSAL#5)**

**AT PRESENT, THE D.C. CODE PRESCRIBES CRIMINAL PENALTIES FOR OBSTRUCTION OF INVESTIGATIONS. UNLIKE FEDERAL LAW, HOWEVER, THERE IS NO DISTRICT PROVISION CRIMINALIZING OBSTRUCTION OF AN AUDIT OR INSPECTION. WE RECOMMEND ENACTMENT OF SUCH A PROVISION.**

**INDEPENDENT INVESTIGATIONS OF THE DISTRICT OF COLUMBIA HOUSING AUTHORITY (PROPOSAL #6)**

**AT PRESENT, THE IG’S AUTHORITY TO CONDUCT INVESTIGATIONS REGARDING EMPLOYEES AND CONTRACTORS OF THE DISTRICT**

**HOUSING AUTHORITY, WHICH IS AN INDEPENDENT AGENCY OF THE DISTRICT GOVERNMENT, IS LIMITED TO ONLY THOSE ALLEGATIONS REFERRED BY THE COUNCIL. WE RECOMMEND CHANGES TO THE D.C. CODE TO AUTHORIZE THE IG TO ACT UPON ALLEGATIONS RECEIVED FROM OTHER RELIABLE SOURCES.**

**APPLICATION OF THE FEDERAL ETHICS IN GOVERNMENT ACT TO THE DISTRICT OF COLUMBIA (PROPOSAL #7)**

**IT HAS BEEN OUR EXPERIENCE THAT THE DISTRICT HAS NEGLECTED TO FOCUS UPON CREATION OF A SYSTEM OF CLEAR ETHICAL STANDARDS FOR GOVERNMENT EMPLOYEES. CONSEQUENTLY, THE DISTRICT HAS NOT ASSIGNED THIS CRITICAL AREA THE PRIORITY IT DESERVES. WE STRONGLY SUGGEST THAT SYSTEMATIC CHANGES TO THE REGULATIONS AND ENFORCEMENT PROCESS BE EXPLORED AND IMPLEMENTED TO ENSURE UNIFORM COMPLIANCE BY ALL DISTRICT GOVERNMENT EMPLOYEES AND OFFICIALS. WE HAVE ALREADY TAKEN PRELIMINARY STEPS TO IDENTIFY OTHER JURISDICTIONS WHICH HAVE ESTABLISHED THEIR OWN BODY OF ETHICS REGULATIONS. WE FOUND THAT FLORIDA, VIRGINIA, ILLINOIS, CALIFORNIA, AND NEW YORK HAVE DONE SO. THE DISTRICT OF COLUMBIA COULD WELL CHOOSE TO TAKE SIMILAR STEPS. HOWEVER, I STRONGLY SUGGEST THAT OUR STANDARDS MIRROR**

**THOSE SET FORTH IN FEDERAL LAW. THOSE STANDARDS ARE CLEAR AND THEY ARE ENFORCEABLE.**

**INSPECTOR GENERAL REMOVAL AND SALARY CAP (PROPOSAL #8)**

**THE INSPECTOR GENERAL STATUTE PROVIDES THAT DURING A NON-CONTROL YEAR, THE MAYOR MAY REMOVE THE INSPECTOR GENERAL WITH CAUSE. WE RECOMMEND PLACING A “CHECK” ON THE MAYOR’S ABILITY TO REMOVE THE IG BY REQUIRING THAT THE COUNCIL APPROVE ANY SUCH ACTION BY A TWO-THIRDS MAJORITY. THE INSPECTOR GENERAL STATUTE FURTHER PROVIDES THAT THE INSPECTOR GENERAL’S SALARY MAY NOT EXCEED LEVEL IV OF THE EXECUTIVE SCHEDULE. THIS SALARY CAP SHOULD BE ELIMINATED IN ORDER TO ATTRACT THE MOST HIGHLY QUALIFIED APPLICANTS FOR THE IG POSITION IN FUTURE YEARS. THIS CHANGE ALSO WOULD HAVE THE EFFECT OF PROVIDING THE MAYOR -- NOT THE FEDERAL GOVERNMENT -- WITH THE OPPORTUNITY TO SET THE IG’S SALARY IN THE SAME WAY THAT HE NOW DOES WITH REGARD TO OTHER CABINET OFFICIALS.**

**ADDITIONAL PERSONNEL AUTHORITY (PROPOSAL #9)**

**THE CURRENT STATUTORY SCHEME ALLOWS THE MAYOR TO HIRE AND FIRE OIG EMPLOYEES, WHO – FOR THE MOST PART – MAY BE FIRED WITHOUT CAUSE. ADDITIONALLY, THE STATUTE PERMITS THE**

**MAYOR TO DESIGNATE 60 EXCEPTED SERVICE POSITIONS TO THE OIG, WHICH CURRENTLY HAS A COMPLEMENT OF 105 EMPLOYEES. WE RECOMMEND TRANSFERRING THIS AUTHORITY TO THE IG, TO ENHANCE THE OIG'S INDEPENDENCE AND TO ELIMINATE THE CONFUSION CREATED BY THE STATUTE.**

**APPLICABILITY OF THE FEDERAL FALSE STATEMENTS STATUTES**

**(PROPOSAL #10)**

**UNDER FEDERAL LAW, IT IS A FELONY OFFENSE FOR A PERSON TO MAKE AN ORAL OR WRITTEN STATEMENT THAT IS MATERIALLY FALSE TO ANY BRANCH OF THE FEDERAL GOVERNMENT. THE DISTRICT'S FALSE STATEMENTS LAW, HOWEVER, APPLIES ONLY TO WRITTEN STATEMENTS AND IS PUNISHABLE AS A MISDEMEANOR OFFENSE. WE RECOMMEND INCLUDING THE DISTRICT OF COLUMBIA GOVERNMENT WITHIN THE SCOPE OF THE FEDERAL STATUTE TO ALLOW PROSECUTORS GREATER FLEXIBILITY IN CHARGING MORE EGREGIOUS FALSE STATEMENT VIOLATIONS.**